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BEFORE THE POSTAL REGULATORY COMMISSION WASHINGTON, D.C. 20268-0001

VALASSIS NSA	Docket No. MC2012-14
	Docket No. R2012-8

THE WASHINGTON POST'S COMMENTS IN OPPOSITION TO THE VALASSIS NSA

WP Company LLC d/b/a The Washington Post ("The Washington Post" or "The Post") respectfully submits these comments in opposition to the Negotiated Service Agreement for Valassis Direct Mail, Inc. ("Valassis NSA") that the United States Postal Service has submitted for approval by the Postal Regulatory Commission. The Washington Post is a major metropolitan daily newspaper with approximately 2,200 employees that publishes local, national, and international news in its print edition, on its website, and on various mobile platforms.

We agree with the comments that will be submitted by the Newspaper

Association of America, which demonstrate that the Valassis NSA is unlawful and bad
policy because it will cause unreasonable harm in the marketplace, it will not result in a
net financial gain to the Postal Service, it will benefit only one Postal Service customer,
and it will create unreasonable rate discrimination between Valassis and other
customers who use the Postal Service. We will not repeat these arguments here.

We submit these separate comments to make four specific points from The Post's perspective, which are set forth more fully below. <u>First</u>, The Post is dismayed that the Postal Service would seek approval of an NSA that on its face favors only one mailer and would do so with inadequate information and without any input at all from

competitors like The Post who will be so seriously affected by it. <u>Second</u>, the Valassis NSA itself will cause unreasonable harm to The Washington Post's business. <u>Third</u>, the Postal Regulatory Commission should not take a wait-and-see approach by approving the Valassis NSA on the theory that it can review its impact later, because the Valassis NSA will cause immediate and irreparable harm to The Washington Post's business. <u>Fourth</u>, the Postal Service stands to lose over \$3 million per year in Washington Post mail revenues if it approves the Valassis NSA.

By way of background, The Washington Post has two main sources of operating revenues -- print and digital advertising, and newspaper subscriptions. Print advertising represents the largest source of Post revenues. Approximately 20% of The Post's total print advertising revenue comes from the distribution of the Sunday insert package. The Post distributes the packages with the Sunday newspaper, mails them to non-subscribers as part of a total market coverage ("TMC") product, and delivers them to certain non-subscribers through independent newspaper distributors.

Advertising for durable and semi-durable goods – the first advertising (but we can reasonably assume not the last) that Valassis seeks to take away from newspapers by obtaining an NSA -- is a critical part of The Post's preprint advertising distribution program. Approximately 60% of The Post's Sunday preprint revenue comes from national retailers who sell durable and semi-durable goods, including Macy's, Best Buy, Sears, Kmart, JCPenney, Walmart, Target, and Toys R Us.

1. The Valassis NSA is the product of an unfair process and is based on inadequate information.

The Post first learned about the Valassis NSA when the Postal Service submitted it for approval on April 30. The NSA is for no other customer's benefit, and the Postal

Service even names it the "Valassis Direct Mail, Inc. Negotiated Service Agreement."

The Post had no opportunity to provide input to the Postal Service as it was considering Valassis' request for special pricing.

Given the inadequate process, it is unsurprising that the Postal Service's Statement of Supporting Justification reads as if Valassis wrote it, and does not withstand even a mild degree of scrutiny. For example, the Postal Service cites only one piece of evidence in its submission for the proposition that the NSA will not cause harm to the marketplace – an advertising forecast from MagnaGlobal – and then uses it to generate the following inaccurate and highly misleading statistic to support its position that the NSA will have minimal impact: "the high forecast of gross revenue of \$107 million during year 3 of the agreement is only 0.6 percent of the total forecasted newspaper advertising revenue of \$17.2 billion in 2014." But the Postal Service is comparing two different things here. \$107 million represents *postal revenues*, not advertising revenues. Postal revenues are irrelevant for purposes of determining how much newspaper advertising is at stake.

The Postal Service should never have submitted an NSA for approval with such inadequate analysis of its impact and without any input from the competitors who would be badly damaged by it.

2. The NSA would seriously harm The Washington Post.

As noted above, the Postal Service's Statement of Supporting Justification claims that the special deal will cause minimal marketplace disruption. The Postal Service argues that the advertising marketplace has changed with the rise of digital and social media advertising, and that advertisers increasingly use private delivery to distribute

advertising inserts to consumers. The Postal Service thus contends that "[t]he new saturation shared mails programs contemplated by this agreement are viewed as an alternative and supplement to existing distribution channels. They are not considered a replacement, but rather a means to achieve or maintain desired market coverage, regardless of changes in existing distribution channels." The Postal Service's analysis is flatly wrong. The NSA poses a direct threat to The Washington Post's business and would at a minimum enable Valassis to replace The Washington Post as a distribution channel to consumers for preprinted advertisements for durable and semi-durable goods.

We know this will happen because we have long experience competing head-to-head with Valassis in the market to distribute preprint advertising to consumers in the Washington metropolitan area. We understand how the market responds to any significant change in the competitive landscape. Based on our long experience, we are confident in saying that the consequences would be devastating to The Washington Post, if the Postal Service is allowed to give Valassis a special 21 to 36% saturation mail discount for a new preprint package for durable and semi-durable goods advertisements. We estimate that The Post could lose up to 65% of its Sunday preprint revenue if the Valassis NSA gets approved. Stated another way, The Washington Post stands to lose 13% of its total print advertising revenues if the Postal Regulatory Commission approves the Valassis NSA.

These are conservative estimates. We are quite confident based on our experience that this is the first step in Valassis's much larger plans. Valassis clearly intends to use its steep discounts to create one or two new advertising packages per

month that include inserts from high-profile durable and semi-durable goods advertisers like Walmart, Macy's, Best Buy, etc. If Valassis gets those retailers out of Sunday newspapers and gets shoppers accustomed to a new insert package, it will then try to move other Sunday newspaper preprint advertisers into its direct mail products. The Postal Service will be financing this effort by creating a rebate structure that gives Valassis additional profits with which it can create new discounts. For example, Valassis would get 2.4 ounces for free for insert packages weighing between 6.5 to 9 ounces. The free 2.4 ounces are pure profits that Valassis can use to price against newspapers for other retailer inserts from the Sunday package or to get non-retailer inserts into its mid-week TMCs.

Stated in plain terms, the Valassis NSA puts all of our Sunday preprint revenues at risk, which amounts to nearly 20% of The Post's total print advertising revenues. It also puts certain run-of-press (ROP) advertising at risk.

3. The harm to The Post will be immediate and irreparable.

The Postal Regulatory Commission should not consider taking a wait-and-see approach to assess the harm that would be caused by the Valassis NSA. There is no question that Valassis will start trying to take preprint distribution business away from The Washington Post immediately if the NSA is approved. It is our understanding that the Postal Regulatory Commission's first substantive review of the NSA's impact on the market would not occur until March 2014 as part of its Annual Compliance Determination. By that time, the irreversible damage to The Post and other newspapers will be done.

4. The NSA will not create a net benefit for the Postal Service.

The Valassis NSA will harm the net financial position of the Postal Service. We

estimate that the Postal Service stands to lose approximately \$3 million per year in

postal revenues from The Washington Post's TMC product alone as a result of the

Valassis NSA. We like to use the Postal Service for delivery of our TMC product. But

The Post will have to move large amounts of TMC product into private delivery

alternatives in order to compete with the steep Valassis discounts.

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In sum, we understand and appreciate the Postal Service's desire to find new

sources of postal revenue to improve its financial position, but for the reasons stated

above, we believe that the Valassis NSA is not an appropriate solution. We therefore

urge the Postal Regulatory Commission to reject the Valassis NSA. At a minimum, the

Postal Regulatory Commission should require the Postal Service to reexamine the full

impact of the proposal on the market for distributing preprinted advertisements and on

the Postal Service's overall finances.

Respectfully submitted,

THE WASHINGTON POST

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6